

Southern California Edison Company submits the following comments regarding Article 6: Qualified Departing Load CRS Exemptions. In addition to the comments discussed below, SCE recommends several changes to correct formatting and grammatical errors. Please refer to the attached red-line document which incorporates all of SCE's recommendations.

Section 1395. Scope

SCE recommends adding a sentence to the end of this section to clarify that in the event that any portion of the document is inconsistent with CPUC Decision 03-04-030 (D.03-04-030), the decision shall control.

Section 1395.1 Rules of Construction and Definitions

Section (h): SCE proposes to expand the first sentence to help clarify the definition of "CRS Exemption".

Section (i): SCE proposes that the words following "confidentiality" should be deleted.

Section (l): SCE proposes to modify the last sentence and to insert a sentence at the end of the definition to help clarify the definition of "Departing Load". This insertion was taken directly from the footnote in D.03-04-030, and clarifies that a customer who disconnects from the grid and installs a generator such that it is islanded would not be exempt. SCE believes that a customer who "physically disconnects" refers to a customer who moves and leaves the utility's service territory, not one who installs a generator and islands.

Section (m): As discussed at the workshop, SCE agrees the Departing Load CRS Information Form should be referenced, but not included as part of the regulations in order to preserve the flexibility to make future modifications to the form without having to modify the regulations.

Section (o): SCE recommends changing the word "excluded" to "exempt".

Section (r): SCE proposes to delete the references to the subsections of Section (g) and the reference to Section 1395.2(c)(4). Given that there are several circular references in CPUC Decision 03-04-030 defining the different categories of "partial CRS exemption," it would be more accurate to refer to the decision directly. As discussed above, if any portion of the regulations is inconsistent with CPUC Decision 03-04-030, the decision shall control. In addition, SCE recommends changing the word "excluded" to "exempt".

Section 1395.2 General Requirements for Eligibility to be Exempt from the Cost Responsibility Surcharge and Information to Report

SCE recommends that the title of this section be changed to: **"Process for Determining Eligibility for Cost Responsibility Surcharge Exemptions, and Reporting Requirements"**

Section (b)(1): SCE recommends that the time be changed from 10 calendar days to 10 business days.

Section (b)(2): SCE recommends that the time be changed from 10 calendar days to 15 business days.

Section (c)(2): SCE recommends that the time be changed from 10 calendar to 10 business days.

Section (c)(3): Insert reference to CPUC Decision 03-04-030.

Section (c)(3)(a): SCE recommends that the concept of “eligibility” under the CPUC’s Self-Generation Incentive Program be replaced with “receives funding”.

Section (c)(3)(b): SCE recommends that the concept of “eligibility” under the Commission’s Renewable Energy Program and/or Emerging Buydown Program be replaced with “receives funding”.

Section (c)(4): During the Workshop, Mr. Tomashefsky indicated the CEC’s intention to have a third party review all of the applications as part of its verification process. SCE suggests that a third party review of every application would unnecessarily burden the process. If the criteria for eligibility are established in advance, the utility can perform this function. If there is disagreement as to the outcome, the customer has the ability to use the appeal process.

Section (c)(4)(A): Insert reference to Public Utilities Code Section 353.2.

Section (c)(4)(A)(ii): SCE recommends adding a sentence to clarify that Cogeneration customers are exempt from CTC as provided in Public Utilities Code Section 218.5.

Section (c)(4)(B) and Section (c)(4)(C): SCE recommends that these sections pertaining to the allocation of the Megawatt Cap be moved to Section 1395.3. Alternatively, Sections (4)(B) and (4)(C) should be renumbered as Sections (5) and (6), respectively.

Section 1395.3 CRS Exemption Queue and Procedures for Updating

Insert new Section (a): SCE proposes that a sentence be inserted to clarify that a 3,000 Megawatt Cap shall be established pursuant to CPUC Decision 03-04-030. Section (c)(4)(C) regarding other customer generation, originally discussed in Section 1395.2, should be inserted here. This information is more an explanation of the allocation of the Megawatt Cap rather than the customer’s eligibility. A customer could be “eligible”, based on the evaluating criteria, but not receive an exemption because the limit on the Megawatt Cap has been reached (exemptions are awarded on first-come, first-served basis).

Insert new Section (b): SCE proposes that the information regarding the allocations for the University of California and the California State University System, originally discussed in Section 1395.2(c)(4)(B), should be inserted in this section.

Section (c)(1): SCE recommends adding a phrase to clarify that final approval shall be based on verification that all the requirements and conditions for exemption are met.

Insert new Section (g): SCE recommends that a section be added that clarifies that the Commission shall establish a monitoring process in order to ensure that customer generation customers continue to meet the requirements for exemption once approve.

SCE's Redline

EXPRESS TERMS

Chapter 3. Data Collection

Article 6. Qualified Departing Load CRS Exemptions

Section 1395. Scope

The regulations in this Article implement the California Energy Commission's (Commission) role in providing assessments and forecast of energy related matters within the state. The regulations set forth the mechanism and process for reporting of information by customer generators requesting Cost Responsibility Surcharge (CRS) exemptions. The regulations also set forth the mechanism and process for the Commission to determine and track CRS eligibility of Departing Load. To the extent any portion of the regulations is inconsistent with CPUC Decision 03-04-030, the decision shall control.

Section 1395.1 Rules of Construction and Definitions

The rules of construction and definitions in Section 1302 of Article 1 of this Chapter, and the definitions set forth in this Section, apply to this Article.

- (a) "Backup Generation" means electricity generated by a Customer in order to replace the generation lost from that Customer's normal supply source, usually the Electric Utility.
- (b) "Best Available Control Technology" means the maximum degree of emissions reduction achievable after taking into account energy, economic, and environmental impacts.
- (c) "Bond Charge" means the California Department of Water Resources (CDWR) Power Supply Revenue Bonds, Series 2002A – 2002E, issued by the State of California October 23, 2002 and November 7, 2002. The Bonds were issued for the purpose of repaying the State's General Fund for procuring electricity on behalf of Pacific Gas and Electric Company, Southern California Edison, and San Diego Gas & Electric Company from January 17, 2001 to December 31, 2002.
- (d) "CARB" means the California Air Resources Board.
- (e) "CPUC" means the California Public Utilities Commission.
- (f) "Cogeneration" means the sequential use of energy for the production of electrical and useful thermal energy, as set forth in Public Utilities Code section 218.5.

(g) “Cost Responsibility Surcharge” or “CRS” means energy cost obligations consistent with CPUC Decision 03-04-030. CRS-related costs are recoverable from eligible customers on a cents-per-kilowatt basis and include the following components:

- (1) Costs associated with ~~Southern California Edison’s Historical~~ Procurement Charge;
- (2) Costs associated with the procurement of power by the CDWR for purchases made between January 17, 2001 and December 31, 2002;
- (3) Costs associated with the power contracts entered into by the CDWR on behalf of Pacific Gas and Electric Company, Southern California Edison, and San Diego Gas & Electric Company for procurement beginning January 1, 2003; and
- (4) Tail Competition Transition Charge, as defined in Public Utilities Code section 367(a).

Deleted: the procurement of power by the

(h) “CRS Exemption” means the avoidance of the payment of ~~one or more of the~~ Cost Responsibility Surcharge ~~components~~, as defined in subsection (g), if a customer is eligible. Eligibility is based on provisions outlined in CPUC Decision 03-04-030.

Deleted: a

(i) “CRS Exemption Queue” or “Queue” means the list of CRS Exemption Requests either approved or pending Commission eligibility determination of a CRS Exemption. The Commission shall maintain the Queue in electronic format with aggregated totals posted on the Commission website. Only ~~the~~ capacity of ~~the~~ unit ~~the~~ customer applying for ~~the~~ exemption intends to install shall be listed, or made publicly available. Identification and location of ~~the~~ customer applying for ~~the~~ exemption shall be deemed confidential.

Deleted: pending final determination of eligibility

(j) “Commission” means the California Energy Resources Conservation and Development Commission.

(k) “Customer Generation” means cogeneration, renewable technologies or any other type of generation that is dedicated wholly or in part to serve a specific customer’s load, and generally located at or near the point of consumption.

(l) “Departing Load” means that portion of the utility customer’s electric load for which the customer: (1) discontinues or reduces its purchase of bundled or direct access service from the utility; (2) purchases or consumes electricity supplied and delivered by Customer Generation to replace the utility or Direct Access purchases; and (3) remains physically located at the same location or elsewhere within the utility’s service territory as of the date on which this Commission decision becomes effective. Departing Load does not apply to changes in the distribution of load among accounts as a customer site with multiple accounts, load resulting from the reconfiguration of distribution facilities on the customer site, provided that the changes do not result in a discontinuance or reduction of service from the Utility at that location. It also does not apply to Departing Load that physically disconnects from the utility grid ~~and is not served by an alternative electric source. Reduction in load qualifies as DL only to~~

the extent that such load is subsequently served with electricity from a source other than the utility.

- (m) “DL CRS Information Form” or “Form” means the document containing pertinent information from the Customer necessary for the Commission to determine whether or not a Customer is eligible for a CRS Exemption.

Deleted: . The Form is contained in Appendix A of Section XXX.

- (n) “Electric Utility” means an investor-owned utility. In this case, Electric Utility refers to Pacific Gas and Electric Company, Southern California Edison, or San Diego Gas and Electric.

- (o) “Full CRS Exemption” means that a Customer is exempt from paying any of the surcharges associated with the Cost Responsibility Surcharge defined in subsection (g) of this section.

Deleted: s are excluded

- (p) “Megawatt Cap” means the total amount of generating capacity, expressed in megawatts, eligible for a CRS Exemption, consistent with the provisions of CPUC Decision 03-04-030 and subsequent CPUC Decisions.

- (q) “Net Energy Metering” shall have the same definition as set forth in Public Utilities Code 2827(b)(3).

- (r) “Partial CRS Exemption” means that a Customer is exempt from paying certain components of the Cost Responsibility Surcharge as defined in subsection(g), but do not qualify for full CRS Exemption. The extent to which a customer may be eligible for an exemption is based on the criteria set forth in CPUC Decision 03-04-030.

Deleted: s are excluded

Deleted: surcharges associated with

Deleted: (2) and subsection (g)(3)

Deleted: that

Deleted: Section 1395.2(c)(4), consistent with

- (s) “Ultra Clean and Low-emissions” shall have the same definition as set forth in Public Utilities Code 353.2.

Section 1395.2 **Process for Determining Eligibility for Cost Responsibility Surcharge Exemptions, and Reporting Requirements**

Deleted: General Requirements for Eligibility to be Exempt from the Cost Responsibility Surcharge and Information to Report

- (a) Customer shall submit a DL CRS Information Form to the Electric Utility.

- (b) Electric Utility shall conduct an initial review and determine whether the Form is complete.

- (1) If the Form is incomplete, then within 10 business days of receipt of the Form, the Electric Utility shall notify the Customer that additional information is needed to process the request for a CRS Exemption. The notification shall indicate which portion(s) of the Form require supplemental information.

Deleted: within 10 calendar days upon receipt of the Form

- (2) If the Form is complete, then within 15 business days of receipt of the Form, the Electric Utility shall:

Deleted: then

- (A) Provisionally categorize each project;
(B) Identify the conditions that must be met to receive final project categorization; and

Deleted: within 10 calendar days upon receipt of the Form

(C) Transmit the completed Form with provisional project categorization to the Commission, with a copy to the Customer serving as official notification.

(c) Upon receipt of a completed Form with provisional project categorization from the Electric Utility, the Commission shall review the completed Form and determine if the Customer is eligible for a CRS Exemption and if there is space available under the designated Megawatt Cap. The Commission shall designate the initial determination of eligibility to the appropriate Commission Committee assigned to matters concerning distributed generation.

(1) The Commission shall deny any CRS Exemption request that is considered Backup Generation or diesel-fired customer generation, consistent with CPUC Decision 03-04-030.

Deleted: .

(2) The Commission shall deny a CRS Exemption request if the Customer does not meet the criteria outlined in the following subsection. In this instance, the Commission shall provide written notification to the customer and the Electric Utility about the specific reasons for the rejection within 10 business days of the denial.

Deleted: calendar

(3) Pursuant to CPUC Decision 03-04-030, the Commission shall approve a Full CRS Exemption, subject to an aggregate 3,000 Megawatt Cap, if the Customer is:

Deleted: T

(A) Receives funding under the CPUC's Self-Generation Incentive Program;

Deleted: Eligible for

(B) Receives funding under the Commission's Renewable Energy Program Emerging Buydown Program; or

Deleted: Eligible for

(C) Participates in Net Energy Metering.

Deleted: A

Deleted: Customer

(4) The Commission shall approve a Partial CRS Exemption if the total capacity request is within the Megawatt Cap and the Customer is:

(A) Classified as Ultra Clean and Low-Emissions, as defined in Public Utilities Code Section 353.2, and Over One Megawatt. In order to be classified in this category :

Deleted: .

(i) The Commission shall verify that the generating equipment is equal to zero emissions or less than the 2007 State Air Resources Board Emissions Limit for Distributed Generation.

(ii) The Commission shall verify that technologies operating by combustion must operate in a combined heat and power application with at least a 60 percent system efficiency. Cogeneration customers are exempt from CTC as provided in Public Utilities Code Section 218.5.

Deleted: (B) Sponsored by the University of California or the California State University System, subject to the following Megawatt Caps: ¶
(i) 10 megawatts by the end of 2004; ¶
(ii) 80 additional megawatts by the end of 2008; and ¶
(iii) 75 additional megawatts thereafter; or ¶

Deleted: (C) Other customer generation not qualifying under (A) and (B) of this subsection, or subsection (3) of the previous Subsection, subject to meeting air district best available control technology standards and the following Megawatt Caps: ¶
(i) 600 megawatts by the end of 2004; ¶
(ii) 500 additional megawatts by the end of 2008; and ¶
(iii) 400 additional megawatts thereafter. ¶

Section 1395.3 CRS Exemption Queue and Procedures for Updating

(a) A 3,000 Megawatt (MW) cap on the amount of customer generation not required to pay the DWR ongoing power charge portion of the CRS shall be established and applied to all customer generation departing load. The following limitations shall apply:

Formatted: Indent: Left: 0"

1. Other customer generation, as defined in Ordering Paragraph 9 of CPUC Decision 03-04-030, is limited to a total of 1,500 megawatts and the following Megawatt Caps:

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Tab after: 1" + Indent at: 1"

(i) 600 megawatts by the end of 2004;

(ii) 500 additional megawatts by the end of 2008; and

(iii) 400 additional megawatts thereafter.

Formatted: Indent: Left: 1"

2. The University of California or the California State University System, shall be granted the following specific allocations within the Megawatt Cap:

Formatted: Numbered + Level: 1 + Numbering Style: 1, 2, 3, ... + Start at: 1 + Alignment: Left + Aligned at: 0.75" + Tab after: 1" + Indent at: 1"

(i) 10 megawatts by the end of 2004;

(ii) 80 additional megawatts by the end of 2008; and

(iii) 75 additional megawatts thereafter; or

Formatted: Indent: Left: 1"

(b) A CRS Exemption Queue shall be established by the Commission and be based on a first-come, first-served basis, utilizing the criteria outlined in Section 1395.2. Forms shall be date-stamped upon receipt by the Commission.

Deleted: a

(c) The CRS Exemption Queue will be publicly accessible via the Commission's website. Information to be displayed on the Commission website will be limited to: 1) the date of a CRS Exemption Request; 2) the date a pending CRS Exemption Request expires; and 3) the capacity of the project, expressed in kilowatts.

Deleted: b

(d) The Commission shall track all Forms and determine Customer eligibility for a CRS Exemption. Once determining eligibility, the Commission shall place the Customer request in the CRS Exemption Queue, subject to the Megawatt Cap.

Deleted: c

(1) If the Customer request ultimately falls within the Megawatt Cap (after verification that conditions are met to receive final project verification):

(A) The Commission will notify the Electric Utility and the Customer whether the request falls within the Megawatt Cap.

(B) The Commission will notify the Electric Utility and the Customer that the CRS Exemption Request has been approved and the Electric Utility will not include the appropriate Cost Responsibility Surcharges in the Customer's electricity bill.

(2) If the Customer request does not fall within the Megawatt Cap:

(A) The Commission will:

(1) Notify the Electric Utility and the Customer that the request does not fall within the Megawatt Cap;

(2) Place the Customer request on the CRS Exemption Queue ranked in order of receipt.

(e) The Commission will update the CRS Exemption Queue weekly in order to ensure timely and efficient Customer access to a CRS Exemption. In doing so, the Commission shall:

Deleted: d

- (1) Remove CRS Exemption requests if a Customer does not commence operation within twelve months from the date a CRS Exemption request is approved by the Commission; and
- (2) Incorporate any changes to the Megawatt Cap as determined by the CPUC in Rulemaking 02-01-011 or subsequent proceedings.

(f) The Electric Utility shall notify the Commission when an eligible Customer commences operation of its generating facilities.

Deleted: e

(g) The Commission shall establish a monitoring process in order to ensure that customer generation customers continue to meet the requirements for exemption once approved.

Section 1395.4 Appeals

- (a) If the Commission has determined that a Customer is either not eligible or the Customer disputes the initial categorization of the exemption by the Electric Utility, the Customer may file a written request for reconsideration of the determination or initial categorization with the Commission.
- (b) If the Commission has determined that the time allowed to remain in the Queue has expired, the Customer may file a written request for reconsideration by the Commission, and request an extension of the time to remain in the Queue. Any request for an extension of time must be based on good cause, and demonstrate circumstances beyond the Customer's control.
- (c) Written request for re-determination or an extension of time shall be sent to the Commission within thirty (30) days of the customer generator receiving notice of either non-eligibility or expiration of time allowed within the queue.
- (d) The Commission shall review the written request for re-determination or extension of time within sixty (60) days of receipt.
- (d) Upon approval by the full Commission the decision shall become final.